

Attorney Docket No.: PENN0870US.NP
Inventors: Sweeney et al.
Serial No.: 10/566,796
Filing Date: April 2, 2008
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REMARKS

Claims 1-18 are pending in the instant application. The Examiner states that the "application contains claims directed to the following patentably distinct species: the many different and distinct diseases in claim 18." Claim 18 recites that the degenerative skeletal muscle disorder or disease is muscular dystrophy, amyotrophic lateral sclerosis, spinal muscle atrophy or spinal cord injury. The Examiner suggests that the species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. The Examiner suggests that these species are not obvious variants of each other. The Examiner also suggests that there is an examination and search burden due to their mutually exclusive characteristics.

Applicants respectfully traverse this species election requirement.

MPEP § 808.01 states that an election of species should be made when a generic claim recites such a multiplicity of species that an unduly extensive and burdensome search is required. In the instant case, only 4 species, all of which fall under the generic term of degenerative skeletal muscle disorder or disease are set forth in claim 18. It is respectfully submitted that 4 species is not a multiplicity of species for which an unduly

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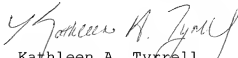
extensive and burdensome search is required. Accordingly, reconsideration of this species election requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect the species of muscular dystrophy, with traverse. Claims encompassing this species include claims 1 through 18.

It is understood that upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


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